

Schimsa, Rebecca

From: Patel, Swati
Sent: Friday, June 27, 2014 11:26 AM
To: Schimsa, Rebecca
Subject: Fw: Councilman

Here it is.

Sent from Windows Mail

From: Creighton Waters
Sent: Friday, June 27, 2014 11:22 AM
To: Patel, Swati

Swati,

As promised, see below for the informal analysis concluding felony threatening is a crime of moral turpitude:

Crimes of moral turpitude involve acts of baseness, vileness, or depravity in private and social duties which man owes to his fellow man or to society in general, contrary to the customary and accepted rule of right and duty between man and man. In determining whether a crime is one of moral turpitude, the Court's focus is primarily on the duty to society and one's fellow man which is breached by the commission of the crime. Green v. Hewett, 305 S.C. 238, 407 S.E.2d 651 (1991).

Tillman was convicted of threatening a public official pursuant to S.C. Code Ann. § 16-3-1040(A), a felony which provides:

It is unlawful for a person knowingly and wilfully to deliver or convey to a public official or to a teacher or principal of an elementary or secondary school any letter or paper, writing, print, missive, document, or electronic communication or verbal or electronic communication which contains a threat to take the life of or to inflict bodily harm upon the public official, teacher, or principal, or members of his immediate family if the threat is directly related to the public official's, teacher's, or principal's professional responsibilities.

The facts are that subsequent to his arrest for DUI Tillman threatened to harm and ultimately threatened to kill the arresting officers.

A civilized society depends on public officials being able to do their duty, which often includes tough and unpopular decisions or actions, without fear of bodily harm or death. Threatening a police officer with death for doing his duty is in particular a direct assault on the rule of law and a civilized society. Additionally, the General Assembly made this crime a felony, which is relevant to the analysis. As such, the threatening crime for which Tillman was convicted is clearly a crime of moral turpitude. See State v. Perry, 294 S.C. 311, 364 S.E.2d 201 (1988) (malicious injury to personal property is a crime of moral turpitude); State v. Harris, 293 S.C. 75, 358 S.E.2d 713 (1987) ("The crime of "Peeping Tom" involves peering into private places and breaches a duty one owes his neighbors. It is inherently immoral. While not determinative, it is also significant that the legislature has categorized the crime as a felony."); State v. Hall 306 S.C. 293, 296-297, 411 S.E.2d 441, 443 (S.C.App.,1991) (violent resistance to police can be a crime of moral turpitude). See also People v. Lindsay, 209 Cal.App.3d 849, 857 (Cal 1989) (battery on a police officer is a crime of moral

turpitude); *People v. Thornton* 3 Cal.App.4th 419, 424 (Cal. 1992) (threats of death or great bodily injury are crimes of moral turpitude); *People v. Williams*, 72 Cal.App.4th 1460, 1465 (Cal. 1999) (resisting an executive officer is a crime of moral turpitude); *Sapp v. State*, 271 Ga. 446, 448, 520 S.E.2d 462, 464 - 465 (Ga. 1999) (“Theft, shoplifting, the making of terroristic threats, and the giving of a false name to a police officer all are crimes of moral turpitude”); *O'Connor v. Meyer*, 2008 WL 5481704, 9 (Conn.Super. 2008) (“Obscenity and threatening are crimes which are punishable by imprisonment and are crimes involving moral turpitude”).

Regards,

Creighton



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From: Patel, Swati [mailto:SwatiPatel@gov.sc.gov]
Sent: Thursday, June 26, 2014 6:49 PM
To: Creighton Waters
Subject: Re: Councilman

Thank you Creighton. We will issue a letter to the town council tomorrow after we get your write up.

Please let Bob know I hope he feels better soon!

Sent from my iPhone

On Jun 26, 2014, at 6:35 PM, "Creighton Waters" <CWaters@scag.gov> wrote:

Swati,

Good talking with you a while ago. I have looked at the issue and also have talked with Bob Cook, and we both agree felony threatening a public official is a crime of moral turpitude. I will provide a little write up tomorrow but wanted to go ahead and advise of our thoughts.

Regards,

Creighton

Sent from my iPhone

On Jun 26, 2014, at 2:42 PM, "Patel, Swati" <SwatiPatel@gov.sc.gov> wrote:

Creighton and Ashley,

The only way we can officially vacate this office is if Mr. Tillman was convicted of a "crime of moral turpitude". Last fall, when we asked your office for information about this indictment following constituent calls, we assumed we did not have authority to

suspend Councilman Tillman because we were not notified of the indictment occurring last May. (See email below)

In the past, we have not declared a seat vacant without first having suspended the official first. We may be able do that here, but only if we can get your office to provide us an opinion on whether "threatening the life of a public official" is a crime of moral turpitude.

Swati

From: Patel, Swati
Sent: Tuesday, October 01, 2013 3:42 PM
To: 'Adam Piper'
Subject: Councilman

Adam,

We have received some letters from constituents regarding Councilman Charlie Tillman from Calhoun Falls. He was apparently indicted for several violations and I saw that the AG's office provided some comments and a copy of the indictment to the media.

Do you have a copy of the indictment? If so, we are determining whether we had the authority to suspend him from office back in May when he was indicted. Usually our office is immediately notified by the prosecuting authority if the Governor has authority to indict, therefore I am assuming we did not in this case. However, I want to make sure.

Thanks,
Swati

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